

WEST SUSSEX COUNTY COUNCIL
FLOOD RISK MANAGEMENT CONSULTATION

DATE: 28 August 2018

FROM: Ray Drabble

TO: Arun District Council

FAO: Mr M Eastham

PLANNING REFERENCE: BN/44/18/DOC

LOCATION: Angels Nursery Yapton Road Barnham PO22 0AY

RECOMMENDATION:

Advice	☐	Modification	☐	More Information	☐
Objection	☒	No Objection	☐	Refusal	☐

1. West Sussex County Council (WSCC), in its capacity as the Lead Local Flood Authority (LLFA), has been consulted on the above proposed development in respect of surface water drainage.
2. This represents a second response with respect to this proposal commenting specifically upon discharge of conditions. The LLFA first commented on the full application on 15 September 2016. This response should be read in conjunction with the LLFA's original response.

Condition 8

The development layout shall not be agreed until such time that arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site has been submitted and approved in writing by the Local Planning Authority.

No construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site.

Reason: To ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010, can be fulfilled without additional impediment following the development completion.

3. WSCC LLFA has already corresponded with Arun DC following representation from the Agent, Gail Pilkington, that Condition 8 was unreasonable. For completeness, this correspondence is included as Enclosure 1.
4. Based upon perusal of the layout forwarded under this DoC application, it remains unchanged from that which formed the object of Gail Pilkington's email.

5. On this basis, the layout for the site requires amending to ensure that a 3m easement is maintained either side of the watercourse at the western boundary of the site. Specifically plot 95 needs to be reconfigured to avoid encroaching on this easement.

R C Drabble
Flood Risk Engineer (Sustainable Drainage)
Residents' Services – Highways and Transport
West Sussex County Council

Enclosure:

1. Email from Gail Pilkington, Agent for Angels Nursery application, with comments annotated by LLFA staff.

From: Gail Pilkington [REDACTED]
Sent: 03 July 2018 17:16
To: Michael Eastham
Subject: Condition 8 Angels Nursery

Hi Michael

To follow up our telephone conversation I attach as requested my concerns about condition 8 attached to the Angels Nursery scheme BN/43/16 and seek your views:

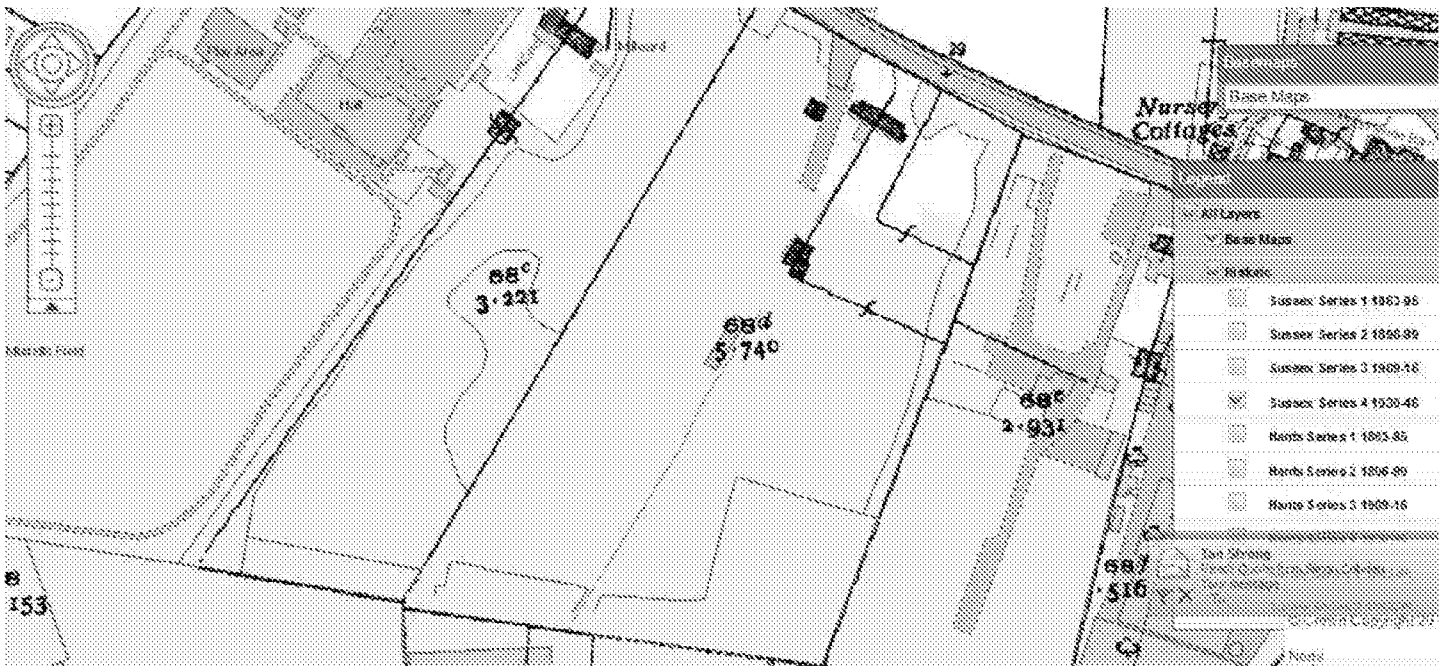
1. Despite the wording, this was a full application therefore the layout has already been approved
2. It follows that the condition is unreasonable - to the extent that I had assumed it merely to be an error. The purpose of my email to you on 5th June was to highlight the error in the condition being imposed and to gain agreement that it either it did not need to be discharged as it was an error or alternatively that in effect it was already discharged by the approved layout.
3. We both agree that there is no pre-commencement requirement. This adds to the case that the condition is in error.

The LLFA does not agree with this interpretation. The drawings listed under Condition 1, do not include an approved drainage layout. The requirement for a drainage layout is, therefore, listed as a pre-commencement condition and this is a relatively standard pre-commencement condition that is applied when insufficient evidence has been provided with the application to demonstrate how drainage is going to be delivered to comply with National and Local policy. The failure, in this instance, on the part of the applicant to adequately consider easement for maintenance of existing ditches demonstrates why this pre-commencement condition is necessary. As it currently stands, the proposed layout does not comply with paragraph 5.7.1 of the adopted West Sussex LLFA Policy for the Management of Surface Water which reads:

5.7.1 The drainage system must be designed to take account of the construction, operation and maintenance requirements of both surface and subsurface components, allowing for any personnel, vehicle or machinery access required to undertake this work. Ditches and watercourses (including culverts) should retain a three metre easement with access that allows for its future maintenance by people / equipment in perpetuity.

The applicant should also be aware that grant of planning permission does not circumvent or override other statutory requirements including those of Section 23 of the Land Drainage Act 1991 (as amended by paragraph 32 of Schedule 2 of the Flood and Water Management Act) that relates to Ordinary Watercourse Consents.

4. The east and west boundaries have "ditches" which influence a couple of plots (plots 95 and 64) if the 3m easement is overlaid on the approved layout. The eastern "ditch" has already been previously agreed by Paul Cann (see attached email) to not form part of the drainage network and is a land drain installed for the previous nursery on the site rather than a ditch. This led to the agreement that it could be partially infilled but the infilling does not extend as far as plot 64. In Paul Cann's absence the LLFA cannot comment on what he has agreed directly in relation to plot 64 and the eastern ditch. The same may apply to the western "ditch" as it does not connect to the north and is very shallow where it starts. It too is likely to be a drain put in for the glasshouses rather than a "ditch" within the definition of the bylaws. The LLFA does not accept this interpretation. A field boundary ditch is clearly shown on the Sussex historic 1930-46 OS Map extract overlain on the mastermap below.



5. Nonetheless and without prejudice to 4 above there are 2 plots where some encroachment of structures occurs within the 3m zone and as requested I attach plans to illustrate that:

a) the extent of the encroachment is limited in both length and extent (see below) therefore access for such a modest depression could easily be achieved by machinery from around the building sides (in the unlikely event that such access was needed).

The WSCC policy regarding easement for maintenance plant is needed to allow effective maintenance and minimise future flood risk. This includes minimising the risk of residents dumping material into watercourses where boundary fences are immediately adjacent to a watercourse, a common problem where garden fences are juxtaposed with watercourses.

b) there is ample space for access in the vicinity of plot 95 from Murrells Field side which is protected Public Open Space

c) the “encroachment” on plot 64 is only for the length of a garage and there is no approved layout (yet) for the adjoining site.

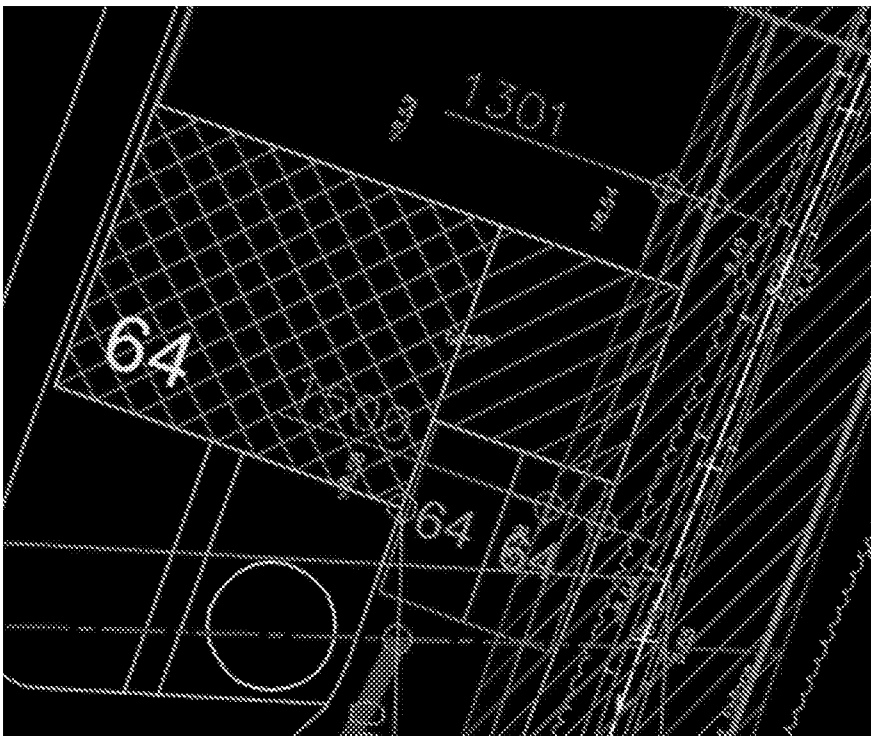
The details of the footprint location in relation to a 3m easement are illustrated below.

1074mm encroachment to N side of Plot 95

750mm encroachment to S side of Plot 95



1301mm encroachment to N side of Plot 64
1500mm encroachment to S side of Plot 64



I should stress that the reinstatement of the ditch in the SW corner where there is a culvert is unaffected.

Paragraph 206 of the NPPF states that “Planning conditions should only be imposed where they are:

1. necessary;

2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects.”

It seems clear to me that the condition fails several of these tests and I would be grateful if you would discuss the implication of this with Paul Cann and advise me of the LPA's position regarding condition 8 as a matter of urgency. The LLFA disagrees and maintains that Condition 8 satisfies all the above criteria.

Kind regards
Gail

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Senior Planner

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